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To: Reply GRC
Refer to: Docket No. 9-83-RGA-5
Facility ID: ADDUS301213

Mr. Mark Gohlmann
Union Manufacturing Inc.
6625 West Allison Road
Chandler, Arizona 85224

Re: Determination of Violation, Compliance Order
And Notice of Right to Request a Hearing

Dear Mr. Gohlmann:

Enclosed please find an Administrative Compliance Order and Assessment of Penalties issued pursuant to Section 3003 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §692g. This Order and Assessment is based on violations of 40 CFR Part 265. These violations were found during an inspection at Union Manufacturing Inc. on December 1, 1982. A copy of our inspection was previously transmitted to you on January 6, 1983.

You should refer to the enclosed Order and the attached Consolidated Rules of Practice, 40 CFR Part 27, to determine the options available to you in responding to this action. Please be advised that these options include an opportunity to request a hearing.

Regardless of whether you choose to request a hearing within the prescribed time of thirty (30) days following service of this Order, you are invited to request an informal settlement conference. To request a conference, please write to David H. Jones, Office of Regional Counsel, EPA Region 9, 215 Fremont Street, San Francisco, California 94105, or call Mr. Jones at (415) 974-7364.

Failure to respond by filing a written Answer with the Regional Hearing Clerk within thirty (30) days of receipt of this Order constitutes admission of the allegations therein.

Such a failure will result in the issuance of a Default Order imposing the penalties proposed herein without further proceedings. You should also be aware that any violations of this Order may result in further enforcement action in Federal district court in which both civil penalties and injunctive relief may be sought.

In addition to the violations set forth in the enclosed Order, during the December 1 inspection of your facility, the following violations of EPA's hazardous waste regulations were observed:

40 CFR 265.15(b) and (d)-- Failure to develop and follow a written inspection schedule. Failure to record inspections in an inspection log or summary.

40 CFR 265.16(d)-- Failure to maintain personnel training records that include job descriptions, descriptions of training, and records of training.

40 CFR 265.17(a)-- Failure to post "No Smoking" signs in the paint stripping area and the hazardous waste storage area.

40 CFR 265.112-- Failure to develop a written closure plan.

40 CFR 265.113-- Failure to develop a written post-closure plan.

40 CFR 265.142-- Failure to provide a cost estimate for facility closure.

40 CFR 265.144-- Failure to provide a cost estimate for post-closure monitoring and maintenance.

40 CFR 262.21(a)(4)-- Failure to provide the complete address and EPA identification number of the designated TSD facility (see Appendix II of the EPA inspection report).

At this time, EPA is not including citations to these violations in the enclosed Order, nor is the Agency proposing to assess penalties for these violations. Nevertheless, EPA expects Galion Manufacturing, Inc. to correct the above-listed violations within thirty (30) days. You are hereby requested to submit a written status report within thirty-five (35) days of receipt of this Order, certifying that corrective measures have been implemented and compliance achieved. This report should include measures taken and/or to be undertaken to prevent recurrence of the violations identified in this Order.

plans or procedures developed. Submit this report to the
Chair, Toxics and Waste Programs Panel (T-2), U.S. Environ-
mental Protection Agency, 205 Freeway Street, San Francisco,
94103 with a copy to David M. Jones, Office of Regional
Counsel at the same address.

Sincerely yours,

Harry Saraydarian
Acting Director
Toxics and Waste Management Division

Enclosure 1, Compliance Order
U.S. 140 CFR Part 20

cc: Arizona Department of Health Services
(with Compliance Order and Inspection Report)

bc: Jones, OPC
Basis, T-2-1
Mandel, T-3-2 ✓
Grimm, OMEP, HQ

T-2-1:Plaist Union Manufacturing:6129:2/28/83

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 9

In the Matter of) Locket No. 9-81-EPA-8
UNION MANUFACTURING INC.) DETERMINATION OF VIOLATION,
) COMPLIANCE ORDER
) AND
Respondent) NOTICE OF RIGHT TO REQUEST A HEARING

INTRODUCTION

This is a civil administrative action instituted pursuant to Section 3002(a)(1) of the Resource Conservation and Recovery Act (RCRA), as amended, 42 U.S.C. 6923 and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 CFR Part 23. Complainant is the United States Environmental Protection Agency, Region 9 (EPA). The Respondent is Union Manufacturing Inc., whose principal place of business is 6625 Kent Allison Road, Chandler, Arizona 85224, which is on Indian Lands as indicated by Item 18 on EPA Form 3510-1 (E-30) submitted by the Respondent on November 19, 1986.

This Determination of Violation, Compliance Order and Notice of Right to Request a Hearing (hereinafter "Complaint") serves notice that the complainant on the basis of the information available to it has reason to believe that a facility owned and operated by Respondent which took place on or about

December 1, 1992, finds that Respondent is in violation of Section 3004 of RCRA, 42 U.S.C. 6924, and the regulations promulgated by the United States Environmental Protection Agency to implement the statute.

The factual findings and probable violations enumerated in the Complaint establish the basis for the civil penalty proposed for each violation pursuant to Section 3002(q) of RCRA, 42 U.S.C. 6922. The penalties proposed herein are based on the seriousness of the violation, the threat of harm to public health or the environment and the efforts of the Respondent to comply with the applicable requirements. The factual findings and probable violations are as follows:

Cause I

1. Valley Manufacturing Inc., an Arizona Corporation (hereinafter "Respondent"), is a person as defined in Section 1004 (15) of RCRA, 42 U.S.C. 6923 (15) and 40 CFR 260.10 and 122.3.

2. Respondent submitted a Notification of Hazardous Waste Activity, EPA Form 3700-12 (4/80), required by Section 3020 of RCRA, 42 U.S.C. 6930, on August 8, 1989, which indicates that Respondent owns and operates a facility located at 6625 West Allison Road, Chandler, Arizona 85224 (hereinafter "Facility").

3. The four 8 pound cylinders contained in each shipping container were found to contain approximately 100 pounds of lead, which is a hazardous waste under Section 3005 of RCRA, 42 U.S.C. 6925.

3625 of RCRA, 42 U.S.C. 6925; and 40 CFR 122.22(a)(1), to be submitted no later than November 19, 1980, was submitted on November 18, 1980.

4. Complainant finds that Respondent operates a facility for the treatment, storage and disposal of hazardous waste as defined in 40 CFR 361.3 which was in existence prior to November 19, 1980. Has continued to operate after November 19, 1980, has complied with the other provisions of Section 3605(a) of RCRA, 42 U.S.C. 6925, and 40 CFR 122.22(a) by submitting the notice described in paragraph 2 above and the permit application in paragraph 3 above and thereby qualifies for "interim status", which means that Respondent will be treated as if a permit had been issued under Section 3605(a) of RCRA, 42 U.S.C. 6925(a), and will be subject to the standards of 40 CFR Part 265 which became effective on November 19, 1980.

5. 40 CFR 265.13(a) and (b) requires that the owner or operator of a facility that treats, stores, or disposes of any hazardous waste to obtain a detailed chemical and physical analysis of a representative sample of the waste. The owner or operator must develop and follow a written waste analysis plan which describes the procedures which he will carry out in order to comply with paragraph (a) of this section.

6. An inspection of the facility on or about December 1, 1982 revealed that the Respondent had not developed and implemented a written waste analysis plan, and no analysis was being conducted which indicated the Respondent had complied with any of the

waste analysis requirements in violation of 40 CFR 265.13.

Count II

1. Paragraphs 1 through 4 of Count I are hereby incorporated by this reference as if the same were set forth in their entirety.
2. 40 CFR 265.14(a) requires the owner or operator of a facility which treats, stores, or disposes of hazardous waste to maintain a security system designed to prevent the unknowing entry of people and minimize the unauthorized entry of either people or livestock upon the active portion of the facility, unless, the entry of the unknowing people or unauthorized entry of people or livestock upon the active portion of the facility will not result in injury to people or livestock and will not injure the environment.
3. On or about December 1, 1982, an inspection of the Facility revealed that the Facility is unenclosed, all waste management areas are open, and accessible via an unpaved road. Security measures do not include a 24-hour surveillance system; artificial or natural barriers around the active portion; means to control entry at all times; and danger signs at the entrances in violation of 40 CFR 265.14(a).

Count III

1. Paragraphs 1 through 4 of Count I are hereby incorporated by this reference as if the same were set forth in their

entirety.

2. 40 CFR 265.31 requires the owner or operator of a treatment, storage, or disposal facility to maintain and operate the facility to minimize the possibility of any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

3. On or about December 1, 1982, an inspection of the Facility revealed evidence of a release of hazardous waste or hazardous waste constituents to soil at the locales identified as Areas A thru D on Appendix 12 of EPA's inspection report in violation of 40 CFR 265.31.

Count IV

1. Paragraphs 1 through 4 of Count I are hereby incorporated by this reference as if the same were set forth in their entirety.

2. 40 CFR 265.51 requires the owner or operator of a treatment, storage, or disposal facility to develop and publish a contingency plan designed to minimize hazards to human health or the environment. The plan must be carried out immediately whenever there is a fire, explosion or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

3. On or about December 1, 1982 an inspection of the Facility revealed that the respondent has failed to develop and publish a proper contingency plan in violation of 40 CFR 265.51.

Count V

1. Paragraphs 1 through 4 of Count I are hereby incorporated by this reference as if the same were set forth in their entirety.

2. 40 CFR 265.90 requires the owner or operator of a treatment, storage, or disposal facility to implement a ground water monitoring program capable of determining the facility's impact on the quality of ground water in the uppermost aquifer underlying the facility and install, operate and maintain a ground water monitoring system.

3. On or about December 1, 1982, an inspection of the facility revealed that the Respondent failed to implement a ground water monitoring program in accordance with the requirements of 40 CFR Part 265, Subpart C by November 19, 1981, and failed to install, operate and maintain a ground water monitoring system in violation of 40 CFR 265.90.

Count VI

1. Paragraphs 1 through 4 of Count I are hereby incorporated by this reference as if the same were set forth in their entirety.

2. EPA regulations 40 CFR Part 265 Subpart H contains financial requirements applicable to the Respondent.

3. Respondent was put on notice of these requirements by EPA in a letter dated June 4, 1982, and a subsequent letter by EPA dated August 11, 1982.

4. 40 CFR 265.141 requires the owner or operator of a treatment, storage, or disposal facility to establish financial assurance for closure of the facility. On or before July 6, 1982, the owner or operator of the facility was required to submit to the Regional Administrator, EPA, a proper letter from an insurer stating that the insurer is considering the issuance of closure insurance which conforms to regulatory requirements. In addition, on or before October 6, 1982, the owner or operator of the facility must submit a certificate of insurance to the Regional Administrator or establish other financial assurance for the closure of the facility.

5. Respondent failed to submit any documentation indicating that an insurer was considering issuance of closure insurance, or the certificate of closure insurance in proper form, or proper documentation of other financial assurance or a request for an extension of the regulatory requirements to the Regional Administrator, EPA, on July 6, 1982, or October 6, 1982, or at any other time in violation of 40 CFR 265.141.

Count VII

1. Paragraphs 1 through 4 of Count I are hereby incorporated by this reference as if the same were set forth herein in their entirety.

2. 40 CFR 265.145 requires the owner or operator of a treatment, storage, or disposal facility to submit to the Regional Administrator, EPA, on or before July 6, 1982, a

proper letter from an insurer stating that the insurer is considering the issuance of post-closure insurance which conforms to regulatory requirements. In addition, on or before October 6, 1982, the owner or operator of the facility must submit the certificate of insurance to the Regional Administrator or establish other financial assurances for the post-closure care of the facility.

2. Respondent was notified by a letter dated June 4, 1982, from EPA of the financial responsibility requirements of the regulations, and a subsequent letter dated August 6, 1982,

3. Respondent failed to submit any documentation indicating that an insured was considering issuance of post-closure insurance, or the certificate of post-closure insurance in proper form, or proper documentation of other financial assurance or a request for an extension of the regulatory requirements to the Regional Administrator, EPA, on July 6, 1982 or October 6, 1982, or at any other time in violation of 40 CFR 265.145.

Count VIII

1. Paragraphs 1 through 4 of Count I are hereby incorporated by this reference as if the same were set forth herein in their entirety.

2. 40 CFR 265.147(e) requires the owner or operator of a treatment, storage, or disposal facility to demonstrate financial responsibility for liability arising out of damage to third parties caused by sudden accidental occurrences.

arising from operations of the facility on or before July 15, 1982, by submitting to the Regional Administrator either a proper certificate of insurance or passing the prescribed financial test or through the use of both.

3. Respondent was notified by a letter dated June 4, 1982, from EPA of the financial responsibility requirements of the regulations, and a subsequent letter dated August 6, 1982.

4. Respondent failed to submit the proper certificate of insurance to the Regional Administrator, EPA, on July 15, 1982, or at any other time or otherwise meet the requirements for the financial responsibility in violation of 46 CFR 265.167.

COUNT I

1. Paragraphs 1 through 4 of Count I are hereby incorporated by this reference as if the same were set forth herein in their entirety.

2. 46 CFR 265.171 requires the owner or operator of a treatment, storage, or disposal facility to transfer hazardous waste or hazardous waste constituents from a container that is not in good condition to a container that is in good condition.

46 CFR 265.172 requires the owner or operator of a treatment, storage, or disposal facility to always maintain containers closed during storage, except when it is necessary to add or remove waste. The owner or operator must not open, handle, or store containers in a manner which may rupture or cause the

3. On or about December 1, 1982, an inspection of the facility revealed containers holding waste which were not in good condition; containers holding waste which were stored open; and containers holding waste which were not managed to prevent leaks in violation of 40 CFR 265.171 and 173.

PROPOSED CIVIL PENALTY

Section 3008(g) of RCRA, 42 U.S.C. 6925(g), authorizes a civil penalty of up to \$25,000 per day for each violation of RCRA, Subsection C, 42 U.S.C. 6921 through 6929. EPA proposes to assess the following civil penalties:

Count I

Failure to analyze waste and develop an analysis plan.....\$300
40 CFR 265.13(a) and (b)
42 U.S.C. 6924

Count II

Failure to maintain a security system.....\$2,700
40 CFR 265.14(a)

Count III

Failure to minimize the possibility of any unplanned sudden or non-sudden releases.....\$5,000
40 CFR 265.31
42 U.S.C. 6924

Count IV

Failure to develop a contingency plan.....\$1,000
40 CFR 265.51
42 U.S.C. 6924

Count V

Failure to develop and maintain a ground water monitoring program.....\$2,700
40 CFR 265.90
42 U.S.C. 6924

Count VI

Failure to furnish financial assurance
for closure.....\$1,700
40 CFR 265.143
42 U.S.C. 6924

Count VII

Failure to furnish financial assurance
for post-closure.....\$1,700
40 CFR 265.143
42 U.S.C. 6924

Count VIII

Failure to demonstrate financial responsibility....\$1,700
40 CFR 265.167
42 U.S.C. 6924

Count IX

Failure to maintain containers in good condition;
maintaining open containers; and not
maintaining containers to prevent leaks.....\$500
40 CFR 265.171
40 CFR 265.173
42 U.S.C. 6924

Total Proposed Penalty.....\$17,500

COMPLIANCE ORDER

1. It is hereby ordered that the total penalty of \$17,500
shall be paid by certified or cashier's check payable to,
"Treasurer of the United States" and remitted to the Regional
Hearing Clerk, U.S. EPA, Region 9, 215 Fremont Street,
San Francisco, CA 94105.

2. Respondent is hereby ordered to submit to Complainant
within the times specified in this Compliance Order below
a written certification that Respondent is in full compliance
with respect to violations of 40 CFR Part 265 charged in

the Complaint.

<u>Violation Charged</u>	<u>Days* to Achieve Compliance</u>
40 CFR 265.13(a) and (b) Analyze waste and develop an analysis plan.	60 days
40 CFR 265.14(a) Maintain a security system.	30 days
40 CFR 265.31 and 40 CFR 265.112 Minimize the possibility of any unplanned sudden or non-sudden releases in Areas A-D identified in Appendix 12. Prepare a Closure Plan addressing Areas A-D.	30 days
40 CFR 265.51 Develop a contingency plan.	45 days
40 CFR 265.60 Develop and maintain a ground water monitoring program.	120 days
40 CFR 265.143 Furnish financial assurance for closure.	10 days
40 CFR 265.145 Furnish financial assurance for post-closure.	10 days
40 CFR 265.147 Demonstrate financial responsibility.	10 days
40 CFR 265.171 and .173 Maintain containers in good condition; maintain closed containers; and maintain containers to prevent leakage.	10 days

*consecutive days after receipt of Complaint by Respondent
In the event Respondent shall fail to comply with this Order,

the, in accordance with section 3008(a)(3) of RCRA, 42 U.S.C.

6928(s)(3). Respondent shall be liable for a civil penalty of not more than twenty-five thousand dollars for each day of continued non-compliance for failure to complete the necessary corrective actions within the time specified in this Order. The documentation and certification of compliance required by this Order shall be addressed to Chief, Toxics & Waste Programs Branch, U.S. Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105 with a copy to David M. Jones, Office of Regional Counsel at the same address.

NOTICE OF OPPORTUNITY FOR HEARING

In accordance with Section 3008(b) of RCRA, 42 U.S.C. 6928(b), the Compliance Order set forth herein shall become final unless Respondent files an Answer and request for public hearing in writing no later than thirty days after service of this Complaint, with the Regional Hearing Clerk, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105. A copy of the Answer and request for hearing and copies of all other documents relating to these proceedings filed with the Regional Hearing Clerk should be sent to David M. Jones, Office of Regional Counsel at the same address.

The Answer must clearly and directly admit, deny or explain each of the factual allegations contained in the Complaint with regard to which you have knowledge. A failure to admit, deny or explain any material factual allegation will constitute an admission of the allegation. The Answer must

also state (1) the circumstances or arguments which constitute the grounds of defense and (2) the facts which you intend to place at issue.

If you fail to file a written Answer within thirty days of service of the Complaint upon you, you may be found in default. Respondent's default will constitute an admission of all facts alleged in the Complaint and a waiver of your right to a hearing. A default order may thereafter be issued by the Regional Administrator, EPA, and the penalty proposed in the Complaint will become due and payable without further proceedings.

The public hearing that you request will be held in the EPA Region 9 offices in San Francisco, California unless there is good cause to hold the hearing at another location. The hearing will be conducted in accordance with the provisions of the Administrative Procedures Act, 5 U.S.C. 552 et seq., and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 CFR Part 22 (45 FR 24368), a copy of which accompanies the Complaint.

SETTLEMENT CONFERENCE

Whether or not you request a hearing, you may confer informally with EPA to discuss the alleged facts, violations or amount of the proposed penalty. An informal conference does not, however, affect your obligation to file a written Answer within thirty days of your receipt of the complaint.

The informal conference procedure may be pursued simultaneously with the adjudicatory hearing procedure.

Any settlement reached as a result of an informal conference will, in addition to the compliance schedule set forth in the Order above, be embodied in a written Consent Agreement and Order. The issuance of the Consent Agreement and Order will constitute a waiver of your right to a hearing on any matter to which you have stipulated.

If a settlement cannot be reached through an informal conference, the filing of a written Answer within thirty days of service of the Complaint upon you will preserve your right to a hearing.

EPA encourages all parties against whom a penalty is proposed to explore the possibility of settlement. To request an informal conference, you should contact David M. Jones, EPA Region 9, Office of Regional Counsel, 215 Fremont Street, San Francisco, CA 94105, or at telephone number (415) 974-8610.

David M. Jones
Director, Toxics & Waste Management Div.

CERTIFICATION OF SERVICE

I hereby certify that the original of the foregoing Determination of Violation, Compliance Order and Notice of Right to Request a Hearing,ocket No. 9-83-PICA-6 was filed with the Regional Hearing Clerk, Region 9, and that a copy was sent, certified mail, return receipt requested, to:

Mr. Mark Gottmann

Union Manufacturing Inc.

6625 West Allison Road

Chandler, Arizona 85224

Date

Toxics & Waste Management Div.